

In the High Court of Punjab and Haryana, Chandigarh.

C.W.P. No.13955 of 2006

Date of Decision: 13.11.2006

Mohinder Singh

...Petitioner

Versus

State of Haryana and Others.

...Respondents.

**CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI**

Present: Mr.K.L.Suneja, Advocate for the
Petitioner.

JUDGMENT

M.M.KUMAR, J.

The petitioner has challenged order dated 2.12.2004 (Annexure P14) passed by Controller, Printing & Stationery Department, Haryana, Chandigarh, stopping of his two increments with cumulative effect. The suspension period of the petitioner has been restricted to the subsistence allowance, which has already been paid to him. The appellate order dated 22.5.2006 (Annexure P16) passed by the Financial Commissioner and Principal Secretary, Printing and Stationery Department, Haryana, has also

been made subject matter of challenge, whereby the Appellate Authority had reduced the punishment to stoppage of one increment with cumulative effect. As a consequence of the appellate order dated 22.5.2006 (Annexure P16), the pay of the petitioner has been fixed by inflicting the punishment of stoppage of one increment with cumulative effect.

A perusal of Memo dated 4.6.1999 (Annexure P2) shows that the petitioner was issued a charge sheet leveling allegation that he had used the vehicle of Sh.Sudarshan Kumar Jain, General Secretary, Bharti Sarv Kalyan Society, for taking office record to the other office and has violated the rules. It was also alleged that he was negligent, careless and indisciplined. To the charge sheet, the petitioner had filed reply dated 9.6.1999 (Annexure P3). The Punishing Authority proceeded to hold enquiry under Rule 7 of the Hayana Civil Services (Punishment & Appeal) Rules, 1987 and appointed Sh.D.R.Dhiman, Accounts Officer, as an Enquiry Officer. Subsequently, the enquiry was finally entrusted to Sh.S.P.Sharma, IAS, who submitted his Enquiry Report dated 21.6.2004 (Annexure P11). He has recorded the finding that the charge of using the vehicle of Secretary, M/s Bharti Sarv Kalyan Society, Manimajra to transmit the Government record to other office is proved against him. It was further found that he used the car of a private party to ferry official record from one office to another, whereas, he should have used his bicycle. He has accordingly been found guilty of violating Rules, carelessness, indisciplined and negligent. Thereafter, the petitioner was issued

Show Cause Notice on 6.8.2004 which he duly replied on 16.8.2004 (Annexure P13). Eventually, the Punishing Authority passed an order dated 2.12.2004 (Annexure P14) stopping his two increments with cumulative effect and restricting the payment of salary during suspension period to the subsistence allowance which has already been paid to him. However, the petitioner succeeded in persuading the Appellate Authority to reduce the punishment of two increments with cumulative effect with that of one increment with cumulative effect.

After hearing learned counsel for the parties, we are of the considered view that a perusal of Enquiry Report dated 21.6.2004 (Annexure P11) amply shows that the findings are supported by evidence and it could not be concluded that the findings are without any evidence. Moreover, the petitioner has been granted full opportunity of hearing by the Enquiry Officer. There is no procedural irregularity which might have caused prejudiced to the petitioner resulting into failure of justice. The Punishing Authority passed the order of punishment dated 2.12.2004 (Annexure P14) after issuance of Show Cause Notice and supply of Enquiry Report to the petitioner. The decision of the Appellate Authority has gone in favour of the petitioner inasmuch as instead of two increments, one increment with cumulative effect has been stopped, which in the wisdom of the Appellate Authority was more appropriate punishment. We find no irregularity or legal infirmity warranting interference of this Court in the impugned orders and the same are liable to be upheld.

For the reasons aforementioned, this writ petition fails
and the same is dismissed.

(M.M.KUMAR)
Judge

November 20, 2006
dkb

(M.M.S.BEDI)
Judge